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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,186	01/14/2002	Tetsuya Takeshita	111671	6210

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EXAMINER
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HO, TUAN V

ART UNIT	PAPER NUMBER
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2615

DATE MAILED: 11/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/043,186	<b>Applicant(s)</b> TAKESHITA, TETSUYA	
	<b>Examiner</b> Tuan V. Ho	<b>Art Unit</b> 2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 August 2005.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7, 11 and 13-16 is/are pending in the application.  
     4a) Of the above claim(s) 8-10 and 12 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1, 3-7, 11, 13 and 14 is/are allowed.
- 6) ☒ Claim(s) 2, 15 and 16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 April 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

1. Applicant's election with traverse of the species of Fig. 11, claims 1-7, 11 and 13-16 in Paper filed on 8/29/05 is acknowledged. The traversal is on the ground(s) that there is no serious burden to the examiner to examine claims 1-16. This is not found persuasive because 1) the species of Figs. 1 (including Fig. 6), 11 and 13 show completely different distribution of achromatic color of an object image; 2) the search for the color distribution is different; and 3) the Applicant does not show any evidence that there is no serious burden to the examiner for examine all of the claims.

The requirement is still deemed proper and is therefore made FINAL.

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 16 is rejected under 35 U.S.C. 101 because claim 16 recites "a computer readable computer program product containing an imaging processing program"; however, claim 16 does not recites any computer which executes a set of instructions of the program where the program is stored in a computer readable

Art Unit: 2615

medium. Therefore, claimed computer program product is directed to a non-statutory subject matter.

The examiner suggests changing the claim to read as "a computer readable medium store thereon a computer image processing program comprising a set of instructions when executed by a computer, the computer program comprising:"

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 2 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Manabu et al (a translation of JP 2000224608) cited by Applicant.

With regard to claim 2, Manabu et al disclose in Fig. 1, a digital camera that comprises the image-capturing device comprising an image-capturing element that captures an image of a subject and outputs an image-capturing signal (CCD 14, [0013]), light source estimating device that estimates a type of light source illuminating the subject based upon said image-capturing signal output from said image-capturing element (CPU

Art Unit: 2615

38 working in combination with digital circuit 26 including circuit 28 and 30 estimates a type of light source based on the image signals from CCD 14, [0016] to [0029]), and image processing device that implements image processing on said image-capturing signal output by said image capturing element based upon the light source type estimated by said light source estimating device (circuits 32-36 process the signals from white balance equalization circuit 30 by implementing an image processing so as to provide corrected video signals [0038] to [0040])).

With regard to claim 15, Manabu et al disclose sin Fig. 1, a digital camera that comprises the image processing device (a digital camera is shown in Fig. 1).

4. Claims 1 and 3-14 are allowed.

The prior art of record fails to suggest or disclose:

With regard to claim 1, an image-capturing device comprising a first image-capturing element that captures an image of a subject and outputs a first image-capturing signal; a second image-capturing element that captures an image of the subject and outputs a second image- capturing signal; a light source estimating device that estimates a type of light source

Art Unit: 2615

illuminating the subject based upon said first image-capturing signal output from said first image-capturing element.

With regard to claim 3, an image-capturing element device comprising an image capturing element that captures a subject image passing through a photographic lens and outputs an image-capturing signal; a chromaticity detection device that detects a chromaticity of the subject; a light source estimating device that estimates a type of light source illuminating the subject based upon the chromaticity detected by said chromaticity detection device; a gain calculating device that calculates a gain by using color temperature information corresponding to the light source type estimated by said light source estimating device.

With regard to claim 14, an electronic camera comprising an image-capturing element that captures a subject image passing through a photographic lens and outputs an image-capturing signal; a chromaticity detection device that detects a chromaticity of the subject; a light source estimating device that estimates a type of light source illuminating the subject based upon the chromaticity detected by said chromaticity detection device; a gain calculating device that calculates a gain by using color temperature information corresponding to the light source type estimated by said light source estimating

Art Unit: 2615

device.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hung discloses an electronic camera that comprises a chromaticity memory for storing chromaticity data.

Juen discloses an imaging apparatus that includes a white balance control circuit.

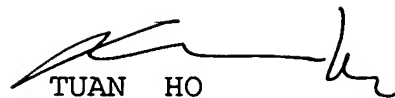
Hashimoto et al discloses a video camera that comprises a white balance sensor.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to TUAN HO whose telephone number is (571) 272-7365. The examiner can normally be reached on Mon-Fri from 7AM to 4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's acting supervisor, David Ometz can be reached on (571) 272-7593. The fax phone number for the organization where this application or proceeding is assigned is (572) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Customer Service whose telephone number is (571) 272-2600.

Art Unit: 2615



TUAN HO

Primary Examiner

Art Unit 2615